



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,849	12/27/2000	Hideki Toshikage	7254/63304	4792

7590 06/19/2003

Jay H. Maioli
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

CHEUNG, MARY DA ZHI WANG

ART UNIT	PAPER NUMBER
----------	--------------

3621

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/749,849

Applicant(s)

TOSHIKAGE ET AL.

Examiner

Mary Cheung

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11,24-33,44-49 and 51-56 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1-11,24-33,44-49 and 51-56 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Status of the Claims

1. Claims 1-11, 24-33, 44-49 and 51-56 are pending. Claims 1-11, 24, 27-29, 32-33, 44-45, 49, 51-52 and 56 have been amended. Claims 12-23, 34-43, 50 and 57-70 have been canceled.

Response to Arguments

2. Applicant's arguments with respect to claims 1-11, 24-33, 44-49 and 51-56 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 3621

5. Claims 1-11, 44-48 and 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U. S. Patent 5,892,900 in view of Garfinkle et al., U. S. Patent 6,017,157.

As to claim 1, Ginter teaches an image commercial transactions system comprising (Fig. 1):

- a) A reception host including (Figs. 1-1A, 7);
- b) An image printing machine having an image scanner for converting a document into digital image data (column 299 lines 36-42),
- c) A server for storing said digital image data (column 299 lines 36-42 and Figs. 1-1A, 7),
- d) A computer for accepting a sale of a digital image stored on said server in a digital data format with a handling condition related to said digital image (column 53 lines 39-60 and column 54 lines 26-56 and Figs. 1, 15A),
- e) Transferring means for transferring said digital image with said handling condition in said digital data format stored in said server (column 53 lines 39-60 and column 54 lines 26-56 and Figs. 1, 15A);
- f) A charge accounting dealer for effecting an electronic charging accounting transaction for the transfer by said reception host of data of said digital image with said handling condition (column 55 lines 44-60 and column 58 lines 23-63 and Figs. 1A, 3-4).

Ginter does not specifically state that the image printer machine is a photographic image printing machine and the image scanner is a photographic image

scanner. However, the data that being transmitted in Ginter's system including pictures (column 283 lines 5-12). Garfinkle teaches a photographic image printing machine having a photographic image scanner for converting a picture on a film into photographic digital image data (column 2 lines 53-61 and column 3 lines 34-51 and Figs. 1, 3). It would have been obvious to one of ordinary skill in the art at the time the inventions was made to allow the image printer and the image scanner of Ginter to be a photographic image printer and a photographic scanner because it would allow the picture related data to be better captured and later to be better distributed.

As to claim 2, Ginter teaches said reception host transfers said data of said image subjected to one of a scrambling processing and a masking process (column 59 lines 48-54 and column 150 lines 35-43).

As to claim 3, Ginter teaches said reception host subjects said data of said digital image to a scrambling process/enciphering, and transfers key data of said scrambling process/enciphering (column 59 lines 48-67).

As to claim 4, Ginter teaches said reception host transfers said digital image with said handling condition and an advertisement in said digital format (column 317 lines 22-42 and column 320 lines 2-20).

As to claim 5, Ginter teaches said reception host transfers data of said advertisement synthesized with said data of said image and with said handling condition (column 317 lines 22-42 and column 320 lines 2-20).

As to claim 9, Ginter teaches said reception host generate predetermined additional information for said data of said digital image, and transfers said generated

Art Unit: 3621

additional information in said digital format along with said data of said image with said handling condition (column 317 lines 22-42 and column 320 lines 2-20).

As to claim 44, Ginter modified by Garfinkle as discussed in claim 1 further teaches an image commercial transactions system comprising (Ginter: Fig. 1):

- a) A distribution device for generating digital image data using a photographic image printing machine having a photographic image scanner for converting a picture on a photographic film into said digital image data, and further generating distribution control data for said picture based upon a handling condition relate to said picture recorded on said photographic file along with said picture, and for integrating the distributing digital image data and said generated distribution control data (see claim 1 above);
- b) A display device for, based on said digital image data and said distribution control data distributed by said distribution device, displaying on a display screen said picture based on said digital image data and distribution control details corresponding to said distribution control data (Ginter: column 53 lines 39-60 and column 54 lines 26-56 and Figs. 1, 5B, 7, 15A).

As to claim 45, Ginter teaches said distribution control data is comprised of control data generated when said picture is recorded and additional control data for adding a predetermined process to said digital image data (column 53 lines 39-60 and column 54 lines 26-56 and column 317 lines 22-42 and column 320 lines 2-20 and Figs. 1, 5B, 15A).

As to claim 46, Ginter teaches said display device displays said intrinsic control data and details of said additional control data that are optionally selected (column 163 line 58 – column 164 line 5 and column 317 lines 22-42).

As to claim 47, Ginter teaches said display device displays said details of said intrinsic control data that are optionally selected (column 163 line 58 – column 164 line 5 and column 317 lines 22-42).

As to claim 48, Ginter teaches said display device displays details of said additional control data that are optionally selected (column 163 line 58 – column 164 line 5 and column 317 lines 22-42).

Claims 6-8 and 10-11 are rejected for the similar reasons as claims 1-5 and 9.

Claims 51-55 are rejected for the similar reasons as claims 44-48.

6. Claims 24-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U. S. Patent 5,892,900 in view of Garfinkle et al., U. S. Patent 6,017,157 in further view of the present applicant 09/749,849.

As to claims 24-25, Ginter modified by Garfinkle as discussed above further teaches an image commercial transactions system comprising (Fig. 1):

a) A reception host for generating and sending digital image data to be distributed, wherein said digital image data is produced by a photographic image center scanner converting a picture on a photographic film into said digital image data (Ginter: column 53 lines 39-60 and column 54 lines 26-56 and column 283 lines 5-12 and column 299 lines 36-42 and Figs. 1; Garfinkle: column 2 lines 53-61 and column 3 lines 34-51 and Figs. 1, 3; see claim 1 above);

Art Unit: 3621

b) A distribution dealer for detecting, from among a plurality of channels for broadcasting predetermined data toward a satellite, and for distributing said digital image data sent from said reception host using one of the plurality of channels (Ginter: column 53 lines 39-60 and column 54 lines 26-56 and column 62 lines 32-50 and Figs. 1, 15).

c) A charge accounting dealer for effecting an electronic charging accounting transaction for distribution of said digital image data (Ginter: column 55 lines 44-60 and column 58 lines 23-63 and Figs. 1A, 3-4).

Ginter modified by Garfinkle does not specifically teach a channel having a surplus in a data transfer rate, and distributing said image data using said channel having said detected surplus. The present application admits that the assigned transfer rate of each channel having a surplus is due to data compression (page 168). Ginter modified by Garfinkle teaches data compression (Ginter: column 68 lines 44-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the size of the compressed data of Ginter modified by Garfinkle to be small enough to have a surplus so that the compressed data can be transferred even faster. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Ginter modified by Garfinkle to detect the channel having the surplus and use said channel to distribute the image data because it would not waste the unused bandwidth.

As to claim 26, the combined system of Ginter and Garfinkle in view of the present application discussed above does not specifically teach detecting said channel

Art Unit: 3621

having said surplus according to the weather. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Ginter modified by Garfinkle to detect the channel having said surplus according to the weather so that condition of the channel can be more accurately detected in the real environment.

As to claim 27, the combined system of Ginter and Garfinkle in view of the present application as discussed above further teaches said reception host accepts a distribution of said digital image with a handling condition related to said digital image stored on a server in a digital data format, and generates data of said digital image to be distributed from said digital image data and control data corresponding to said handling condition (Ginter: column 53 lines 39-60 and column 54 lines 26-56 and Figs. 1, 15A).

As to claim 28, the combined system of Ginter and Garfinkle in view of the present application as discussed above further teaches said reception host generates said control data based on said handling condition recorded on said photographic film (Ginter: column 53 lines 39-60 and column 54 lines 26-56 and column 59 lines 28-35 and Figs. 1, 7).

Claims 29-33 are rejected for the similar reasons as claims 24-28.

7. Claims 49 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al., U. S. Patent 5,892,900 in view of Garfinkle et al., U. S. Patent 6,017,157 in further view of Miodonski et al., U. S. Patent 6,414,679.

As to claim 49, Ginter modified by Garfinkle teaches the pictures as discussed above. Ginter modified by Garfinkle does not specifically teach the display device switches and displays an angle of view of said picture optionally selected. Miodonski

Art Unit: 3621

teaches displaying and viewing pictures from different angles (column 5 lines 38-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pictures of Ginter modified by Garfinkle can be displayed from different angles so that the user can better view the pictures.

Claim 56 is rejected for the similar reason as claim 49.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fredlund et al. (U. S. Patent 5,666,215) discloses a photographic image can be viewed at a customer's location on her personal computer and images selected for initial printing, reprinting and ordering related image services.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (703)-305-0084. The examiner can normally be reached on Monday – Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

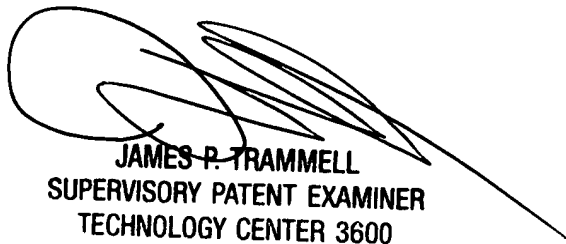
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(703) 305-7687 (Official Communications; including After Final
Communications labeled "BOX AF")
(703) 746-5619 (Draft Communications)

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, 7th Floor Receptionist.

Mary Cheung
Patent Examiner
Art Unit 3621
June 13, 2003


JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600